

Region 8 Executive Order 13650 Workgroup

U.S. Department of Labor/OSHA • U.S. Department of Homeland Security • U.S. Environmental Protection Agency

Standard Operating Procedure: Information Sharing, Coordinated Inspections, and Referrals

- **Purpose:** This SOP establishes the procedures for interagency referrals, coordinated inspections, and information sharing by federal, State, and local government stakeholders.
- **Scope:** This SOP applies to the U.S. Environmental Protection Agency (EPA), U.S. Department of Labor Occupational Safety and Health Administration (OSHA), and U.S. Department of Homeland Security (DHS) Critical Infrastructure Program (Tri-Chairs); and the Region 8 State and Tribal members. Inter-Agency referrals will help ensure appropriate governmental agencies are notified of potential compliance matters, unsafe conditions, security matters, and other factors which may contribute to a catastrophic release or compromise of a chemical facility.
- **Prerequisites:** None.
- **Responsibilities:** The Region 8 Executive Order 13650 (EO) Workgroup is responsible for developing and implementing SOPs which will increase chemical hazard prevention and preparedness at the federal, State, tribal, and local level. This responsibility is the result of the Presidential Executive Order 13650 on Chemical Facility Safety and Security, as well as the report to the White House, developed by the National Chemical Facility Safety and Security Working Group. The report committed “each Regional Response Team (RRT) develop SOPs tailored to their respective regions,” based on the templates developed by the Region 2 Working Group.

The following member agencies have the responsibility to conduct routine regulatory facility inspections, identify risks, take actions to correct violations, and perform inter-agency/office referrals when appropriate:

- a. U.S. Environmental Protection Agency (EPA) Region 8
- b. U. S. Department of Homeland Security (DHS)
- c. U.S. Department of Labor - Occupational Safety and Health Administration (OSHA)
- d. U.S. Department of Justice - Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- e. U.S. Department of Transportation - Pipeline and Hazardous Materials Safety

Administration (PHMSA)

- f. Relevant State and Tribal Departments (to include, e.g., Emergency Management, Environmental Conservation, as appropriate)
- **Procedures:** The Workgroup adopts the following procedures to ensure consistency, sustainability, and effectiveness of information sharing, coordinated inspections, and inter-agency referrals:
 - a. *Information Sharing:* Subject to any constraints regarding confidentiality or privileges, the Tri-Chairs shall exchange information relating to potential inspection targets, complaints, inspections, investigations, violations discovered, imposition of monetary penalties or other legal actions taken to enforce pertinent laws and regulations, and other information necessary to ensure effective and coordinated law enforcement. If requested, EPA may provide to OSHA and DHS non-confidential data collected under the Emergency Planning and Community Right-to-Know Act (EPCRA), the Resource Conservation and Recovery Act (RCRA), the Comprehensive, Compensation and Liability Act (CERCLA), the Clean Air Act (CAA) Section 112(r)'s Risk Management Plan program, and other relevant federal statutes. OSHA will share appropriate inspection information and chemical targeting lists to ensure efficient use of resources, timely emergency response and to coordinate enforcement activity. The agencies will discuss the possible exchange of confidential or privileged information on a case-by-case basis. DHS-IP-ISCD will share its list of regulated facilities to those that have taken the Chemical-terrorism Vulnerability Information (CVI). CVI is the information protection category used to ensure secure handling of certain sensitive Chemical Facility Anti-Terrorism Standards (CFATS)-related information.
 - Except in emergency or exigent circumstances, only CVI authorized users with a “need-to-know” are permitted to access the CSAT Top-Screen, Security Vulnerability Assessment (SVA), and Site Security Plan (SSP), certain correspondence, and other types of CVI as specified in CFATS.
 - Persons potentially eligible to access CVI include facility employees; Federal employees, contractors, and grantees; and State/local/tribal government employees.
 - DHS provides online CVI training and authorization.

When an inspection is conducted, the inspecting agency should consider other

agencies or offices that might have regulatory and jurisdictional concerns regarding specific observed facility operations. Based on the inspecting agency's knowledge of other agencies and offices, the inspecting agency may choose to discuss inspection details with agencies or offices that might have a vested interest.

Tri-chair agencies, while responding to an incident or while conducting an on-site inspection, will keep each other informed of situations or information which may impact one of the other agencies' regulatory responsibilities.

Chairs and regional coordinating committee members will compare facility lists received from State entities against current data in order to identify inconsistencies or gaps that could indicate facilities potentially noncompliant with regulatory requirements.

- b. *Coordinated Inspections:* The Tri-Chairs will maintain an inspection schedule and will coordinate inspection schedules in order to avoid and resolve conflicts with respect to visits to facilities, as appropriate.

The Tri-Chairs will meet quarterly to discuss planned inspections, outreach, and stakeholder engagements in order to integrate efforts as necessary.

Inspectors will be expected to maintain contact with counterparts in other agencies to optimize their respective inspection operations and compliance activities, and share information on issues of possible interest to the other partners resulting from their inspection findings. OSHA contacts will be through their Regional Office.

- c. *Referrals:* The Tri-Chairs may evaluate referrals from the other agencies concerning potential violations of the Agency's requirements and, when appropriate and when resources allow, conduct investigations and inspections. The Tri-Chairs will report back to each other in a timely manner regarding the results of these referrals.

- i. DHS, EPA and OSHA inspectors, in the course of conducting separate inspections or responding to incidents, may discover situations involving potential violations of the other Agency's laws or regulations. In those instances, referrals to the responsible program contacts may be appropriate. Where DHS, EPA and OSHA have conducted joint or coordinated inspections, they may share inspection reports, as appropriate, including copies of any photographs and documents.

- ii. When inspectors discover a pattern of concerning circumstances or facilities that fall outside the expected norm, the Tri-Chairs or a designee will inform each other of these findings. The notification shall be accomplished within 10 business days of discovery. The intent of this process is to ensure partner agencies are made aware when a particularly bad actor, recalcitrant employer, repeat offender, or substantially abnormal condition is identified.
- iii. Each Tri-Chairs agency may evaluate referrals from the other agencies concerning potential violations of the Agency's regulatory requirements and, when appropriate and when resources allow, conduct investigations or inspections and enforcement actions. When a referral is received from a Tri-Chair or other source, the referral is evaluated to determine authority and jurisdiction. If a facility is regulated the referral is routed to the appropriate program, area office, State plan, or regulatory inspector for action. When a referral is received from another Tri-Chair, the receiving agency will inform the referring agency regarding the status within 10 business days of receiving the referral. The agency receiving the referral will share the outcomes that result from the action including inspection reports, enforcement actions, administrative orders and/or citations with the referring agency. As required, the inspection reports and other materials will be handled as appropriate or according to the report's sensitivity and classification level.
- iv. DHS is primarily concerned with being notified due to four possible conditions:
- Chemical of Interest (COI) from Appendix A List of Chemicals to 6 CFR Part 27 (Appendix A) above Screening Threshold Quantity (STQ).
 - COI off of Appendix A above STQ sitting out on a dock or unprotected.
 - Facility that has a COI that has not reported. DHS considers a facility that has not reported an "outlier" since facilities are required to self-report. If it is determined that they hold COI above STQ based on Chemicals on site, refer to the Regional Director for instructions on how to register and fill out a top screen. This information will be forwarded to HQ outlier group.
 - Incident that occurs at a facility that has not been reported. If an incident occurs at a regulated facility, they are supposed to contact the National Infrastructure Coordinating Center or local inspector as part of the site security plan. If the facility is an outlier and an incident occurs, DHS should be notified so an inspection team can follow up and explain the registration process and the top screen process
1. To refer to CFATs, email: csat@dhs.gov or call the CFATS Help Desk Phone: 866-323-2957

v.EPA: EPA is primarily concerned with conditions that may have an impact to public health and the environment.

1. To refer to EPA, call the EPA Region Emergency Operations Center at 303-293-1788
2. The On Duty officer will determine if the situation is an emergency.
 - a. If so, the officer will determine the appropriate response.
 - b. If not, the officer will redirect the call to the EPA EO 13650 Coordinator at 303-312-6568 to determine appropriate follow up action.

vi. OSHA: OSHA is primarily concerned with unsafe workplace conditions and practices. Procedures are below.

1. To refer to OSHA, include:
 - a. Name of referring agency and contact information
 - b. Name and address of employer
 - c. Reason for the notification (hazards/problems)
 - d. Name of a management official and phone number
 - e. Type of facility
 - f. Types of equipment and chemicals at the facility
2. Current contact information is:

Please contact one of the following persons to make a Notification		
Name	Title	Phone Number
Mike Lynham	ARA-FSO	720.264.6566
Chris Lorenzo	S & H Manager	720.264.6572
Sheila Stanley	S & H Manager	720.264.6558
JD Danni	S & H Manager	720.264.6581
Megan Meacher	ARA-TS	720.264.6559

3. Enforcement Limitations: OSHA must determine that a hazard exists. There must be reasonable grounds to believe that a workplace condition or practice exposes employees to harm.

6. References:

- a) Executive Order 13650: Actions to Improve Chemical Facility Safety and Security – A Shared Commitment: Report for the President, May, 2014.
- b) Executive Order 13650: Improving Chemical Facility Safety and Security, August 1, 2013
- c) Appendix A List of Chemicals to 6 CFR Part 27, November 20, 2007

Completed:

U.S. Environmental Protection Agency Region 8

U.S. Department of Homeland Security Region 8

U.S. Department of Labor/OSHA Region 8